

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

GUSI J. MENGER, a/k/a HEATHER §
V. MENGER, a/k/a CARRIE EVELYN §
MENGER, §
§
Plaintiff, §
§
v. § Case No. 6:22-cv-172-JDK-KNM
§
RANDY WAGES, et al., §
§
Defendants. §

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Gusi J. Menger filed this pro se lawsuit May 5, 2022. The case was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for disposition.

On October 4, 2022, Judge Mitchell issued a Report recommending that the Court dismiss this case with prejudice for failure to state a claim on which relief may be granted pursuant to Federal Rule of Civil Procedure 12(b)(6) and 28 U.S.C. § 1915(e)(2)(B)(ii). Docket No. 19. Plaintiff did not file written objections, but has submitted several other filings. Most recently, the Court entered an order on February 24, 2023, giving Plaintiff a final opportunity to file any written objections to the Report within ten days. The order was sent to Plaintiff by regular and certified mail. U.S. Postal Service tracking reveals that Plaintiff did not accept the Court's certified mail.¹ Plaintiff has still not filed objections.

¹ USPS certified mail tracking #70221670000142785064.

This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), superseded on other grounds by statute, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews the legal conclusions to determine whether they are contrary to law. See *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), cert. denied, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 19) as the findings of this Court. It is therefore **ORDERED** that this case is **DISMISSED** for failure to state a claim on which relief may be granted pursuant to Federal Rule of Civil Procedure 12(b)(6) and 28 U.S.C. § 1915(e)(2)(B)(ii).

So **ORDERED** and **SIGNED** this **30th** day of **May, 2023**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE